

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
J. FREDERICK MOTZ  
UNITED STATES DISTRICT JUDGE

101 WEST LOMBARD STREET  
BALTIMORE, MARYLAND 21201  
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September 1, 2004

Re: *In re Mutual Funds Investment Litigation*  
MDL-15863

Dear Counsel:

I have reviewed the motion to intervene filed by Van Kampen Series Fund Inc. and Van Kampen Investment Advisory Corp. (collectively "Van Kampen") and your letters submitted in connection therewith.

The motion to intervene is denied. The purpose of the requested intervention is to seek a stay of discovery in *Jackson v. Van Kampen Series Fund Inc.* and *Van Kampen Investment Advisory Corp.* now pending in the Third Judicial Circuit, Madison County, Illinois. I will assume that I have discretionary authority to permit intervention for that limited purpose. However, because I am unpersuaded that I should stay discovery in the *Jackson* action, I decline to exercise my discretion to allow the intervention. I do not believe that Andrew Friedman and George Zelcs, counsel for the *Jackson* plaintiffs, intended or led me to believe during any of our colloquies that they were consenting to a stay of discovery in *Jackson*. In my judgment an implicit and unspoken premise of all of Mr. Friedman's and Mr. Zelcs' remarks was that they were speaking of cases brought against families of funds named in actions already in (or soon to be transferred to) the MDL proceedings when consenting to a discovery stay.<sup>1</sup>

Likewise, I am inclined to the view that SLUSA contemplates the pendency of parallel state and federal actions as a requirement for the issuance of a discovery stay. Assuming, however, that SLUSA would confer discretionary authority upon me to enter a stay in a state court action where no parallel federal action is pending, I again would decline to exercise my discretion to enter the stay.

There may be sound reasons for staying discovery in *Jackson* in Madison County while the Seventh Circuit is considering the question of whether the action was properly remanded. However, while I recognize that appellate courts are understandably reluctant to become involved in discovery

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<sup>1</sup>I note, and express my appreciation for, the representation made by Mr. Friedman and Mr. Zelcs in their August 27, 2004 letter that they agree to voluntarily suspend any obligation by Van Kampen to respond to Request No. 22, which seeks communications with other mutual funds or investment companies concerning various aspects of the mutual fund pricing process.

issues, it appears to me that if Van Kampen desires to obtain a discovery stay because of the pendency of the appeal to the Seventh Circuit, it should address its arguments to that court.

Despite the informal nature of this ruling, it shall constitute an Order of Court, and the Clerk is directed to docket it accordingly.

Very truly yours,

/s/

J. Frederick Motz  
United States District Judge